

ARGUMENTS/REMARKS

Applicants would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention.

Claims 1-13 remain in this application. Claims 3, 4, and 13 are allowed, but have been amended for editorial reasons to be consistent with amendments to the specification. Claims 5-12 were objected to as being allowable if put into independent format.

Claims 5 and 10 have been put into independent format by adding limitations from the parent claims 1 and 2. They are thus allowable. Claims 6-9 and 11, which depend on one or both of claims 3, 5, or 10, are thus allowable for at least the same reasons as the parent claims.

The Examiner objected to the specification for including both English and German translations for various parameters, and for not having the proper titles. The specification and claims have been amended to recite only the English versions of the parameters, and the titles added, thus making the objections moot.

Claims 1 and 2 were rejected under 35 U.S.C. §102(e) as being anticipated by Ishige *et al.* (U.S. 6,094,489). For the following reasons, the rejection is respectfully traversed.

Claim 1, as amended, recites a method using both weighted "loudness perception parameters of the individual" and weighted "normal loudness perception parameters" using the step of "combining the weighted loudness perception parameters of the individual with the weighted normal loudness perception parameters to define a weighted loudness parameter". The individual loudness perception parameter is weighted using a "first factor" that is non-zero and non-unitary, and the normal loudness perception parameter is weighted using a "second factor" that is different from said first factor and is also non-zero and non-unitary.

Ishige does not suggest any such combining with the cited factors. The Examiner cites the equation " $G=b-a$ " of the reference, stating that "a and b are sound pressure levels on the loudness curves of the normal person and user points", thus admitting that the gain of the reference is based on sound pressure levels, not loudness parameters. But, as argued by the Examiner, the equation " $G=b-a$ " can be written as:

$$G=(1)b + (-1)a$$

which utilizes a unitary value for weighing the "b" parameter, in contradistinction to the claim language, which prohibits such unitary values, and thus the claim does not read on this equation, and thus claim 1 is patentable over the references.

The remaining claims rejected claims depend, directly or indirectly, on one of claims 1 and 3, and thus are allowable for the same reasons as the parent claim.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 33495.

Respectfully submitted,
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